



June Newsletter

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Leverage an Unprecedented Opportunity

1031 Exchange Capital Now at Peak Levels

COVID-19 has disrupted the normal market equilibrium of supply and demand by decreasing listing volume. This new balance created a unique window of opportunity for attracting exchange-motivated capital. Despite commentary suggesting a stalled transactional market, Marcus & Millichap has seen near record levels of closed transactions in 2020. As the 1031 exchange market leader, we know that nearly 40% of these sellers will become buyers.

\$8.1 Billion

in M&M Transactions Closed Since February 2020

1031X Identification and Close Deadlines Extended to July 15, 2020

Should A Tenant Stay or Should it Go Now? Considering Lease Concessions in the Face of a Tenant Bankruptcy

By Douglas B. Rosner, Goulston & Storrs PC

Landlords are receiving a deluge of requests to provide rent relief to commercial tenants whose operations have either been closed or substantially restricted as a result of state and local governments' COVID-19 stay-at-home orders and related restrictions. Some tenants are using the threat of a bankruptcy filing as leverage to obtain these concessions. Meanwhile, landlords are facing their own challenges with mortgage lenders and servicers as they try to service real estate loans with limited available cash.

Landlords should understand the significance of the bankruptcy threat. The most significant shift in negotiating leverage resulting from a bankruptcy is the tenant's right under the Bankruptcy Code to assume, assign or reject leases. Pre-bankruptcy, the landlord is entitled to terminate a lease in response to a tenant default; however, the tenant continues to be bound by the terms of the lease. Post-bankruptcy, it is now the tenant and not the landlord that holds the power to elect whether to assume (keep), assume and assign without landlord consent or reject (terminate) a lease. This shift gives the tenant the leverage to use bankruptcy and the threat of either rejection as a bargaining chip to negotiate for concessions. However, a tenant cannot use the bankruptcy to modify lease terms without landlord consent.



***Douglas Rosner
Goulston & Storrs***

When the tenant comes knocking, a landlord should first consider whether it wants the space back, or the tenant to remain in possession (for example, if the location will be difficult to re-let). The former could make sense where a bankruptcy assignment is a greater risk because the location is highly desirable, the lease is under market, there is significant term remaining, a redevelopment opportunity exists or there is a broad use clause. The presence of these factors may make the lease more marketable for assignment in bankruptcy. By declining a tenant's request for concessions, the Landlord may increase the likelihood that the lease will be rejected if the tenant were to file for bankruptcy. The landlord can then retake possession of the premises.

Another important consideration is the financial condition of the tenant, including the economics of the premises. If the location was highly profitable prior to the COVID-19 shutdown or critical to the tenant's business operations, then it is more likely that the tenant will remain without the requested concessions even if, for other reasons, a bankruptcy filing were to occur. days when the tenant is not open and operating (and, thus, not generating sales).

There are ways to manage the threat of a tenant bankruptcy when negotiating lease modifications. However, as a threshold matter, the landlord needs to decide whether it wants the tenant to stay or go.

Doug Rosner is a bankruptcy and restructuring attorney at Goulston & Storrs, representing clients throughout the country and internationally.

An Am Law 200 firm, Goulston & Storrs is a modern, vibrant firm where the practice of law is pursued with deep expertise and diligence. Collaboration is not just a pillar of our strategy; it is the key to our competitive advantage and approach to clients, community, and each other. Goulston & Storrs is a place where mutual respect drives open discussion, fresh ideas, and optimal solutions for our clients.

Opportunity Zone Investors Get a Covid-19 Lifeline

There have been several notable program changes in light of the Coronavirus pandemic:

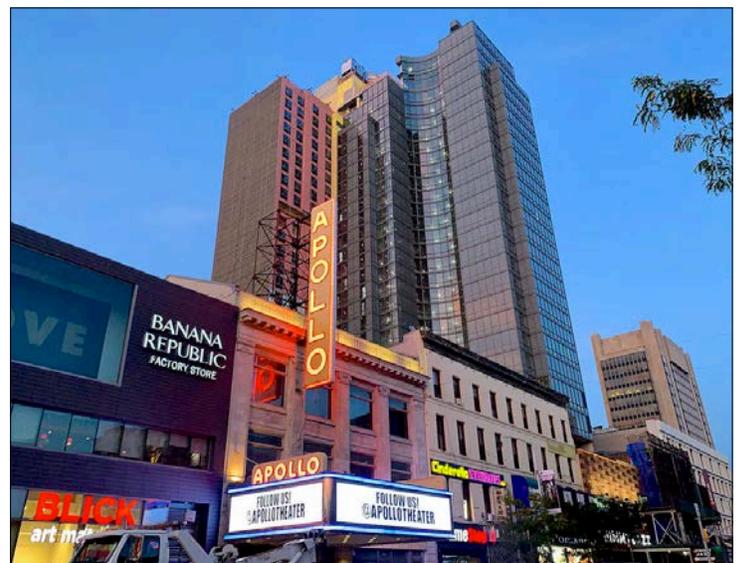
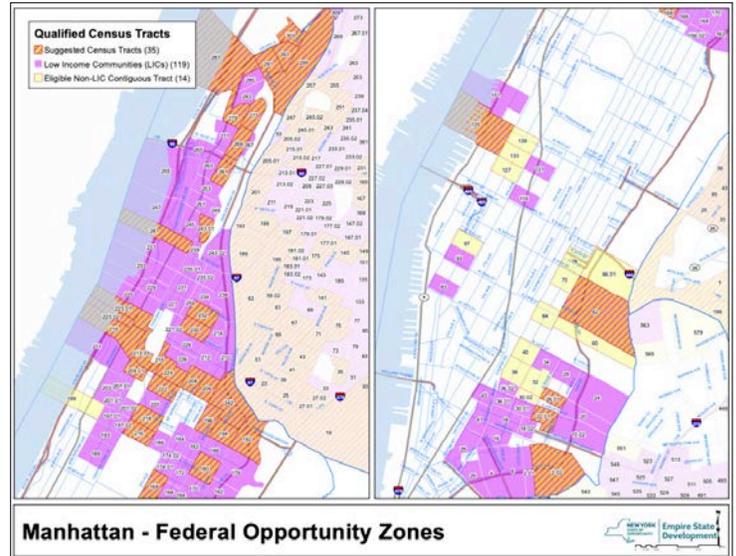
:: Investors now have 39 months to make changes to their Opportunity Zone property, up from 30 months

:: Funds and investors can now hold their money until June 30, 2021 before steering 90% into a designated project, up from six months

:: Investors have until the end of 2020 to invest capital gains into Qualified Opportunity Zone Fund, the limit had been six months

Investment into Opportunity Zone projects has lagged behind the original expectations. However, investment has increased since the rules were clarified in December 2019. Over the past twelve months, a study of 600 Opportunity Zone funds reported a 50% increase in contributions.

See the Real Deal article [here](#).



Korean Pension Funds Change Hedging Strategy

The Government Employees Pension Service (GEPS) plans to abandon its principle of hedging currency exposure from investing in overseas alternatives, as a growing number of South Korean pension funds are willing to take foreign exchange risks that could lead to additional gains.

Last year, the National Pension Service discontinued to hedge against currency exposure for all types of global investments. The Teachers' Pension and other pension funds in South Korea followed suit, reducing hedge positions for overseas assets.

GEPS will revise its guidelines on investment objectives, policy and strategies soon to drop the currency hedge strategy for alternative investments, according to investment banking sources on May 21.

See the Korea Economic Daily article [here](#).

New Senior Broker - The Anton Group has made a key addition. Welcome Pierre Bonan!

Pierre Bonan



Mr. Bonan is a seasoned real estate capital markets professional with over 20 years experience in the business. He has closed over \$1.5 billion in transactions, working for institutional owners and lenders, as well as for a major online auction company. He has substantial experience with distressed debt sales and targeted property auctions.

Recently, Mr. Bonan served as an executive at Ten-X in New York City where he oversaw the successful disposition of over 300 non-performing loans and properties, many on behalf of lenders, including Ten-X's three highest priced asset sales in Manhattan.

Prior to joining Ten-X, Mr. Bonan served as an acquisitions officer for a NYSE listed REIT, NorthStar Realty Finance Corp., in New York City, where he was responsible for acquiring a diverse portfolio of net lease properties throughout the country and also contributed to the company's significant subordinate debt acquisition business.

He also previously worked at Credit Suisse First Boston, where he originated fixed and floating rate commercial mortgages for the bank's CMBS group.

He has been in leadership roles in various trade organizations including ICSC, NAIOP, REBNY and RESA.

Mr. Bonan graduated Trinity College in Hartford, Connecticut where he earned a BA with a major in Economics.

He is a life-long New Yorker and currently resides in Manhattan with his wife and two children. The Bonan family enjoys traveling to France and speaking his ancestor's language.

The Anton Group is on Instagram - *theantongroupnyc*

Follow us [here](#) for updates on commercial real estate, New York City, exclusive listings and the team.



Exclusive Listings

Victoria Theater Redevelopment Opportunity Zone



Offering	Fee Simple
Gross SF	400,000
Type	Mixed-Use
Client	LAM Group

591-593 Broadway SoHo Office Building



Listing Price	\$90,000,000
Gross SF	82,447
Type	Mixed-Use
Client	Private Investor

30 Warren Street New Spectrum Lease



Listing Price	\$13,500,000
Gross SF	3,086
Type	Retail Condo
Client	Cape Advisors

355 West 39th Street Hudson Yards Development



Listing Price	\$9,000,000
Buildable SF	24,500
Type	Development
Client	Private Investor

Chelsea Hotel Top-Performing Asset



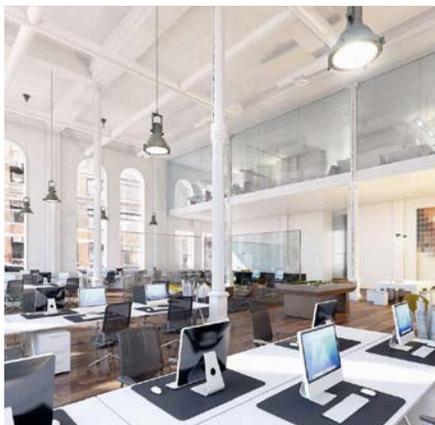
SF	55,916
Keys	158
Type	Hotel
Client	Private Investor

108th Street Development Site 120,000 SF Buildable



Listing Price	Ground Lease
Buildable SF	120,000
Type	Development
Client	Ross & Ross

Tribeca Historic Property LP Investment Opportunity



Equity Raise	\$10-\$20M
Gross SF	36,701
Type	Sale Leaseback
Client	Cirrus

100 First Avenue East Village Multi-Family



Listing Price	\$7,000,000
Gross SF	6,049
Type	Multi-Family
Client	Private Investor

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